

EXHIBIT 116

In the Matter Of:

HENRY v

BROWN UNIVERSITY

BRIDGET TERRY LONG, PH.D.

October 23, 2024



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1 Q. And I guess, Dr. Long, this will be the
2 first test of having you look at a hard copy.

3 MR. NORMAND: Tab 26 is Dr. Hill's report.

4 Bryan, I have in mind Paragraph 14 of that
5 report.

6 A. Yes, I see Paragraph 14.

7 Q. Do you see the language Dr. Hill uses in
8 that Paragraph 14, "I therefore conclude that
9 there are no anticompetitive effects that would
10 outweigh any procompetitive benefits of the
11 568 Group, as identified by Dr. Long in her
12 report."

13 Do you see that language?

14 A. I do see that language.

15 Q. In your report, was part of your
16 assignment to assess any procompetitive benefits
17 of the 568 Group?

18 A. I -- as part of doing my report, I was not
19 posed the question specifically about benefits but
20 to evaluate what the 568 Group was, what it did,
21 and to outline the impact of the group.

22 Q. You don't use the word "procompetitive" in
23 your report. Is that right?

24 A. I would have to look back. I may have

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1 used it. It is not typical of how we think about
2 things in higher education, so it's not a common
3 term that I would use.

4 Q. Do you have an understanding of what
5 Dr. Hill means by "procompetitive benefits"?

6 A. In general, yes. The questions of the
7 benefits -- essential benefits of the 568 Group.

8 Yes.

9 Q. Do you have in your mind a distinction
10 between the benefits of the 568 Group, on the one
11 hand, and the procompetitive benefits of the
12 568 Group, on the other hand?

13 A. So as an economist, I'm aware of what it
14 means to be competitive.

15 As a expert in higher education, which is
16 a distinct industry that thinks about these things
17 perhaps differently than the average for-profit
18 firm, I did very much focus on the question, if
19 the goal is to increase access and equity for
20 low-income students, did the 568 Group benefit
21 students and families in the system overall. So
22 that was really the focus of my report.

23 Q. Do you have any understanding as to
24 whether a procompetitive benefit is a term of art

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1 under the federal antitrust laws?

2 A. That sounds like a legal question, and I'm
3 not here to provide legal opinions.

4 Q. Is, to your understanding, "procompetitive
5 benefit" a term of art in economics?

6 A. As I said, I'm familiar with it more
7 generally with relation to competing for students.
8 I'm aware of how institutions might use different
9 packaging.

10 But with relation to this case and the
11 568 Group being focused on need-based aid and
12 need-based analysis, a family's ability to pay,
13 competition really sits with things like
14 merit-based aid, which is a different part of an
15 institution's considerations for, again,
16 packaging, you know, the combination of loans and
17 grants and work-study, which, again, was separate
18 from the focus of the 568 Group.

19 Q. Do you have any understanding as to
20 whether the conduct that the plaintiffs are
21 challenging in this case is the 568 Group, on the
22 one hand, or the overarching agreement among the
23 defendants, on the other hand?

24 A. My understanding is that there are certain

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1 And then looking at their actions, at what
2 was developed through and recommended through the
3 568 Group, what individual institutions did,
4 whether or not they took those recommendations,
5 whether those recommendations over time advanced
6 ways to better estimate what a family's ability to
7 pay was, and then the overarching what happened
8 over time in terms of net price, in terms of
9 institutional grant aid for the defendants, and
10 whether or not they made progress towards the
11 stated goal of the 568 Group.

12 Q. Did you analyze whether the 568 Group
13 benefited low-income students over and above the
14 benefits that those students would have received
15 from policies that defendants would have adopted
16 even if they weren't members of the 568 Group?

17 A. So that takes a number of hypotheticals.
18 Much of my analysis, much of my discussion
19 considers defendants and their peers. So this is
20 including institutions that are not part of the
21 568 Group and what happened more generally across
22 those institutions, again, as this was part of a
23 larger movement of many institutions.

24 And the 568 Group in its work, in its

24

1 efforts to increase equity and fairness in
2 estimating a family's ability to pay, was in
3 conversation with other industry groups that were
4 also considering these issues.

5 So my report covers not just the
6 defendants. It also looks at their peers, also
7 looks at what's going on in the industry, and
8 noted that there was many efforts.

9 The 568 Group had a specific purpose or a
10 specific set of institutions. It made progress on
11 trying to understand how to meet families where
12 they are and address their affordability needs.

13 And I think you're starting to get into
14 questions of larger hypotheticals. So again, it's
15 important to note that their peer institutions,
16 that many other institutions in higher education
17 were concerned about similar things and were part
18 of much broader efforts.

19 Q. In your analysis, have you tried to
20 disaggregate the impact of the 568 Group on
21 low-income students from other factors?

22 A. If you would please elaborate on what you
23 mean.

24 Q. I take it from your report and your

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1 but there are many different efforts and factors
2 going on during this period.

3 And then I can evaluate did the 568 Group
4 follow the goal of trying to increase equity,
5 fairness, and accuracy in estimating whether or
6 not families can afford to pay for college and how
7 much.

8 Q. Did you conduct any empirical analyses to
9 evaluate whether the 568 Group benefited
10 low-income students?

11 A. So I, again, looked at the trend of the
12 defendants, the defendants and their peers, as
13 shown in several of the figures of my report. And
14 I contextualized that with the work that was done
15 within the 568 Group to give a sense of the impact
16 of whether they made progress at increasing access
17 to low-income students.

18 Q. And do you have an opinion as to the
19 extent to which that progress is attributable to
20 the 568 Group as opposed to other factors?

21 A. So because there are many different steps
22 in the process, this isn't like what economists
23 like to do to completely isolate the impact of one
24 policy.

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1 But what we can see are the improvements
2 that were made over time to better account for the
3 financial circumstances of low-income students and
4 be responsive to their needs so we can see those
5 changes and see that they are for the benefit and,
6 again, are improving equity and fairness in how we
7 try to measure a family's ability to pay.

8 And that work is part of larger systems of
9 efforts that started before the 568 Group and
10 continue to this day to help institutions to make
11 progress in terms of supporting low-income
12 students and increasing financial aid to them.

13 Q. Do you have an opinion on whether
14 defendants could have achieved this progress for
15 low-income students by spending more on
16 institutional financial aid, by offering larger
17 price discounts?

18 A. So the question that was before me was
19 about the 568 Group, which was solving a problem,
20 which was a very important problem in terms of
21 trying to address the needs of low-income
22 students, if you believe that is essential, that
23 if you're going to meet the needs of students,
24 that you do what you can to improve your

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1 Q. Do you know whether by that measure any of
2 the defendants improved their social mobility over
3 the last 25 years?

4 A. So my analysis focused on the period of
5 time they were part of the 568 Group where I could
6 observe what financial aid students received,
7 low-income students received, and their net
8 prices.

9 But the longer-term outcomes in terms of
10 what students' longer-term outcomes in terms of
11 their income distribution is not part of my
12 analysis.

13 So we can cite other work from earlier
14 periods of time showing that low-income students
15 who go to highly resourced, strong institutions
16 are more likely to end up in higher income
17 brackets after graduation.

18 Q. Did you analyze in this case whether the
19 overarching agreement among the defendants
20 increased socioeconomic diversity at the
21 defendants' schools?

22 A. So my first priority was to respond to the
23 claims put forth by Dr. Singer about what the
24 568 Group was, what the CM guidelines were, and

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1 how colleges and universities responded to that
2 information.

3 So that was my first priority, given that
4 was what was highlighted as challenged conduct.

5 The other piece is about the percentage of
6 students from different backgrounds. Again, I
7 speak about some of the indicators that we see but
8 also noting that eventual outcome is reliant on
9 things far beyond the work of the 568 Group.

10 Q. Is it your understanding since the early
11 2000s the schools in the 568 Group have increased
12 their socioeconomic diversity?

13 A. In general, my understanding is yes, the
14 defendants, along with many of their peers, have
15 increased socioeconomic diversity within their
16 student body.

17 Q. Do you have an opinion as to whether the
18 568 schools would have increased their
19 socioeconomic diversity even if there had not been
20 the 568 Group?

21 A. So given the fact that these principles
22 and values had been expressed before the 568 Group
23 formed -- in fact, the early work of the 568 Group
24 drew upon what the defendants and their peers were

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1 already doing -- my sense is that directionally
2 the institutions with these commitments would have
3 moved, again, in the direction of increasing the
4 socioeconomic diversity.

5 So it's unclear, again, given the function
6 of the group as really a learning forum about
7 really dicey issues with need-based aid, whether
8 certain decisions or conclusions or evidence would
9 have been brought to bear about how to improve
10 equity and lack of low-income students.

11 My fear is without expertise, strong
12 analysis, discussions among experts, without that
13 that institutions may have felt less confident
14 about their need-analysis systems. They may have
15 been more cautious.

16 And the thing that I think we have to be
17 very cautious about, this is students' lives. We
18 don't want to experiment in ways that might very
19 negatively impact students and whether or not they
20 can afford to go to peer institutions.

21 So having a group that focused energy on
22 methods to improve equity and access, my sense is
23 that certainly supported these efforts to a much
24 greater degree than if the group had not existed

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1 at all, although, again, I think institutions were
2 working to continue an increasing access for
3 low-income students with things like increased
4 outreach and holistic review and some of the other
5 things in my report.

6 Q. Did you analyze in your report whether
7 four-year colleges that were not in the 568 Group
8 have increased their socioeconomic diversity to a
9 greater extent than the schools in the 568 Group?

10 A. So in the report, I did look at the
11 defendants and their peers, also recognizing that
12 some of the institutions in the 568 Group decided
13 to leave or to return, and looking at that group
14 in general being the commitment to improvement in
15 supporting low-income students.

16 But I did not do deep analysis in one
17 institution relative to another institution. So
18 again, we're dealing with a diverse set of
19 institutions with different resources, context,
20 and so every institution has its own decisions
21 that it needs to make.

22 Q. Did you try to quantify, for purposes of
23 your report, the extent to which the 568 Group
24 itself has helped to increase socioeconomic

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1 diversity at those schools?

2 A. So again, in my analysis I provide very
3 specific analysis on their behavior with regard to
4 the 568 Group and how that may have impacted
5 decisions. And I do look at the overall picture,
6 as I provided in several of my figures.

7 But again, the focus of my analysis was on
8 the conduct that was called into question and the
9 specifics of how the 568 Group functions.

10 Q. Have you reviewed Professor Rothstein's
11 report in this case?

12 A. Yes, I have reviewed that report.

13 Q. And do you have any opinions on his
14 analyses?

15 A. So he's asking a slightly different
16 question in that he's comparing what happened with
17 the defendants relative to other schools.

18 I first would say, again, we're looking to
19 see whether or not they are making progress in
20 terms of supporting low-income students, realizing
21 also that financial aid is just one of many
22 investments that colleges and universities are
23 making in their students, with Dr. Rothstein's
24 work.

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1 tremendously depending on what part of the country
2 you live in.

3 In some parts of the country it is an
4 important part of a family's savings. In others,
5 the home equity is less something that families
6 can tap into.

7 So there was a lot of discussion and lack
8 of clarity. And as you can imagine, as
9 institutions having varied policies, this was
10 confusing for families.

11 Q. When you say in Paragraph 116 of your
12 report that the guidelines, many of which resulted
13 in lower EFCs for many students, have you tried to
14 quantify the percentage of students who had lower
15 EFCs as a result of the guidelines?

16 A. I have not tried to quantify the
17 percentage of students.

18 My focus was on responding to claims by
19 the plaintiffs' expert that the changes in
20 guidelines only went in one direction to the
21 disadvantage of students. And that's not what I
22 found.

23 Q. Apart from home equity, have you reached
24 any conclusions as to other guidelines that

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1 right portion of this up on the screen, for those
2 who are needing the screen version.

3 Q. Would you look at the top of page 13. Do
4 you see that language in the bullet point,
5 Dr. Long?

6 A. I do.

7 Q. And in that sentence, what do you mean
8 when you say "access"?

9 A. Oh, okay. Sorry. In that paragraph or
10 that bullet point, by "access" I mean increasing
11 the ability of students to be able to afford their
12 institution.

13 Q. Is it fair to say that access is a
14 function of, among other variables, the cost of
15 education?

16 A. It is fair to say access is a function of
17 whether or not the students can meet the financial
18 costs they've been presented with. Yes.

19 Q. Your view is that need-based financial aid
20 improves access to education?

21 A. My view is need-based financial aid
22 improves access for low-income students by
23 increasing their ability to afford to attend
24 college.

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1 Q. If you'd look at page 86 of your report.

2 Looking at the header, "The 568 Group Was Formed
3 to Improve Equity and Transparency in Need
4 Analysis." Do you see that?

5 A. I do see that.

6 Q. Do you have an opinion on whether the
7 568 Group was formed to improve access to
8 education?

9 A. My opinion is that the 568 Group took on
10 one piece of a larger puzzle that is necessary in
11 order to improve access to higher education for
12 low-income students.

13 Q. Do you have an opinion on whether the
14 568 Group improved access to education at the 568
15 schools?

16 A. So looking at the nuts and bolts of what
17 the 568 Group did, what the CM guidelines
18 recommended, and the behavior of institutions, I
19 do see examples where the defendants were doing
20 things to better meet the needs of low-income
21 students.

22 And in the aggregate, I see that they are
23 spending more on institutional grant aid, some of
24 them going more toward no-loan programs or

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1 reducing the amount of loans that low-income
2 students take on.

3 Q. Do you have an opinion on whether the 568
4 schools would have better improved access to
5 education if they had not created the 568 Group?

6 A. So the question of whether or not they
7 would have improved access more without the
8 568 Group? That is the question?

9 Q. That's right.

10 A. So in considering the alternative, as I
11 said, these are institutions that have long held
12 these values and principles before the creation of
13 the 568 Group.

14 If the 568 Group had not existed, they
15 would have directionally, my guess is, continued
16 to move in the direction of increasing assets but
17 without the benefit of careful thought about how
18 to estimate the needs of low-income students and
19 to better offer -- make them better able to
20 address their need to pay for college, their
21 affordability issues.

22 So to the degree that the defendants
23 without the 568 Group did not improve their
24 understanding and calculations to meet students

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1 where they are given the resources that they would
2 need in order to attend college, that would have
3 impacted their ability to increase access.

4 The question, though, is there issues that
5 the defendants and their peers and many other
6 institutions were concerned about? Without the
7 568 Group, it's unclear whether or not there would
8 have been improvement to the same degree on
9 elements of how we understand the needs of
10 low-income students.

11 Q. Do you have an opinion on whether Harvard
12 and Princeton did a better job of increasing
13 access than the 568 schools?

14 MS. KIRKPATRICK: Objection to form.

15 A. So I am not making judgment calls about
16 who did it better. One thing when I am teaching
17 these concepts with my students is to be careful
18 about making judgments when there are differences
19 in the underlying resources of institutions.

20 For example, we know that community
21 colleges are very committed to the goal of
22 increasing access for low-income students. So we
23 don't judge them negatively because they have
24 fewer resources to be able to meet the needs of

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1 displays defendants' average net price and how it
2 decreased over time for federally aided students
3 in low-income brackets.

4 So you can see over time the average cost
5 of attendance increased, but for students in the
6 lower-income bracket the average net price
7 decreased over time.

8 Q. And for Figures 3, 4, and 5, do you have
9 any opinion on what those numbers would look like
10 if the 568 Group had not been formed?

11 A. So these figures using the IPEDS data are
12 giving you a sense of the trends over time.

13 One thing I would note is the IPEDS data
14 did not break down the financial aid information
15 into specific categories in the ways that are
16 reflected in tables until the 2008 year. So we're
17 not seeing years previous to that.

18 Would these trends still be relevant
19 without the 568 Group? Given the fact that these
20 institutions of defendants and many of their peers
21 have long emphasized the values of access for
22 low-income students and their goals to improve
23 need analysis to better meet the needs of
24 low-income students, my expectation is that the

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1 defendants would have increased over time their
2 institutional aid.

3 They would have -- we would see reductions
4 in the net price for low-income students, but it
5 is unclear if it would have been at the same pace.

6 It is unclear without the 568 Group if
7 they would have made as much progress on
8 understanding how to account for different
9 elements of the family's financial circumstances.

10 And it's unclear without having such a
11 grounded process, again tapping into experts and
12 data to do the need analysis, if we would have
13 seen the same dramatic trends or if they would
14 have been somehow lessened.

15 But again, it is hard to know the
16 specifics of what would have happened given,
17 again, these were values and goals stated by the
18 defendants and their peers and there were other
19 industry groups that were also noting the
20 importance of need-based aid and trying to improve
21 the calculations of a family's ability to pay.

22 Q. Have you analyzed whether the 568 schools
23 would have made more progress, to use your word,
24 if they had not formed the 568 Group?

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1 A. My analysis focuses on the progress that
2 they made and the role of the 568 Group in helping
3 to address a problem that many in the industry
4 noted and then the progress that they made.

5 Q. You've heard the term "horizontal equity"
6 and used it in your report?

7 A. Yes, I have.

8 Q. And "horizontal equity" refers to treating
9 families in similar financial circumstances
10 similarly. Is that right?

11 A. Yes, generally speaking so.

12 Q. And you've heard the term "vertical
13 equity" and have used that in your report. Is
14 that right?

15 A. Yes. That is correct.

16 Q. And that refers to treating families in
17 different financial circumstances differently.
18 Correct?

19 A. That refers to giving more aid to families
20 that have fewer financial resources.

21 Q. Is it your opinion that the 568 Group led
22 to greater horizontal equity at the 568 schools?

23 A. It is my opinion that the 568 Group did
24 advance horizontal equity among the defendants but

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1 also their peer institutions and many other
2 institutions that they shared the lessons that
3 they learned and the recommendations that they
4 made with the broader industry.

5 Q. Is it your opinion that the 568 Group
6 helped to cause non-568 Group schools to improve
7 their horizontal equity?

8 A. It is my opinion.

9 I can give one example where the work by
10 the 568 Group to better understand how to do
11 cost-of-living adjustments, which is a complicated
12 and dicey topic, that was then shared more
13 broadly, did help institutions to better be able
14 to account for differences, as I've shared before,
15 the students in Manhattan, New York, versus
16 Manhattan, Kansas.

17 Q. Is it your opinion that the 568 Group led
18 to greater vertical equity in the 568 schools?

19 A. It is my opinion that the goal of the
20 568 Group was to improve vertical equity. And by
21 doing careful analysis and discussion of how to
22 treat different elements, that it likely also
23 increased vertical equity.

24 Q. Have you tried to quantify the extent to

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1 which the 568 Group increased vertical equity?

2 A. So my analysis looks at whether or not the
3 group has implemented the stated goals that it had
4 to improve both horizontal and vertical equity and
5 whether or not the behavior -- the recommendations
6 that came out of the 568 Group and the behavior of
7 the institutions reflect them actually living up
8 to that goal. And that is what I find.

9 Q. Is it your opinion that the 568 Group
10 reduced the variation in needs estimates that the
11 568 schools provided to their students?

12 A. So the question of variation in comparison
13 to other students is to improve equity. It's not
14 that we're trying to reduce the variation across
15 students. But any one student, given their
16 financial circumstances, is hopefully now getting
17 a more transparent, equitable, and fair estimate
18 of their ability to pay.

19 So unlike what we see when we looked
20 earlier at Figure 7, you don't have schools
21 estimating vastly different abilities to pay and
22 instead see concerted efforts, thoughtfulness,
23 commitments to equity, so that a family is
24 understanding in a much more transparent way how

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1 in need analysis.

2 Q. And in this context, what do you mean by
3 "fairness"? I don't mean to be dense. But in
4 this context, what does that mean?

5 A. So the concept of fairness goes back to
6 the concept of horizontal and vertical equity.

7 Fairness, if we are trying to meet the
8 needs of low-income students and increase their
9 access, means that we devote more financial aid to
10 students who have fewer resources.

11 Fairness also means that two students may
12 appear to have very different economic
13 circumstances; when we look at the details realize
14 they have the same ability to pay. We would
15 calculate a similar financial need based on the
16 data sets the schools have.

17 Q. And is it your opinion that the 568 Group
18 increased fairness and equity across the 568
19 schools?

20 A. It is my opinion that the 568 Group had
21 the goal of increasing fairness and equity and
22 took steps through their discussions and research
23 to put forth a series of recommendations that in
24 fact did a better job at trying to account for a

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1 family's ability to pay.

2 And then the defendants and others made
3 individual institutional decisions about whether
4 or not to accept those recommendations or to use
5 different policies, but again, with the overall
6 goal of priority of need-based aid and trying to
7 increase access for low-income students.

8 Q. Is it your opinion that the 568 guidelines
9 were a factor in increasing fairness and equity
10 across the 568 schools?

11 A. It is my opinion that the CM guidelines
12 that came out of the 568 Group provided valuable
13 information and, as they changed over time, really
14 reflected learning what was going on among these
15 institutions and their peers and others about how
16 best to estimate a family's ability to pay.

17 So with that goal in mind, the 568 did
18 help advance that goal for the defendants and for
19 other schools.

20 So again, the defendants could look at the
21 recommendations. And as we see in the record,
22 there were lots of different opinions. There was
23 lots of discussions.

24 Many of these issues, it's not obvious

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1 costs.

2 And on the other side, if the willingness
3 to pay results in us giving money to families who
4 can afford to pay for the full price, then the
5 concern is that that money is being given in a way
6 that is not advancing the public mission.

7 Q. Would you agree with Dr. Baum's statement
8 in her primer that equity is the primary
9 motivation for need analysis?

10 A. I would agree, just generally speaking,
11 that, yes, need analysis is trying to get to fair,
12 equitable estimates of a family's ability to pay
13 based solely on their financial circumstances.

14 Q. Would you agree, as Dr. Baum says in the
15 primer, that there is no definitive way to measure
16 the equity of any particular policy?

17 A. I am not aware of that statement and would
18 need to see --

19 Q. For any of these, Dr. Long, I can show you
20 the language. So this is Tab 6, which I guess
21 will be Exhibit 4.

22 (Exhibit 4 marked for identification)

23 A. I have this document.

24 Is there a place I should go?

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1 bit. That's Tab 6 or Exhibit 4.

2 A. Okay.

3 Q. I'm looking at the first full paragraph on
4 page 29, beginning "Profit-making firms."

5 A. Yes, I see that.

6 Q. Would you agree that not-for-profit
7 colleges and universities must pay considerable
8 attention to managing both revenues and costs?

9 A. I do agree that nonprofit colleges do need
10 to pay attention to their resources.

11 Q. Looking at page 49 of the primer. And I'm
12 looking at the first full paragraph on page 49.
13 If you could read that, Dr. Long, and let me know.

14 A. Okay. I've read that first paragraph.

15 Q. Thank you. Dr. Baum says in that
16 paragraph, "There is no absolute standard against
17 which a need analysis methodology can be measured,
18 and many of the judgments involved in constructing
19 a methodology are subjective." Do you see that
20 language?

21 A. I do see that language.

22 Q. Do you agree with that?

23 A. I do agree that designing a need analysis
24 methodology is a complicated thing with certain

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1 elements being subjective, others being formed
2 with evidence.

3 But it is, again, something that requires
4 a lot of thoughtfulness and debate and discussion,
5 which is what we see from the documents in this
6 case.

7 Q. Do you think there's any absolute standard
8 against which to measure a need analysis
9 methodology?

10 A. So as we discussed before, trying to
11 evaluate a need analysis methodology by itself in
12 a vacuum is difficult to think of how you would
13 approach that.

14 But even as Dr. Baum says in the final
15 sentence, you can examine aspects of practices and
16 potential modifications. You can do the
17 comparative statics that we discuss to see whether
18 or not a methodology is moving in a direction that
19 advances equity, advances efficiency, following
20 these economic principles.

21 Q. Dr. Baum says later in the primer, "Even
22 if we could agree on a clear ranking of aid
23 applicants based on financial capacity, the
24 precise amount of the expected contributions would